

HOUSE CONSUMER AND PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 26

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

AN ACT

RELATING TO LAW ENFORCEMENT; ALLOWING NONSALARIED PEACE  
OFFICERS TO MAKE ARRESTS FOR MISDEMEANOR VIOLATIONS OF THE  
MOTOR VEHICLE CODE AND TO ARREST WITHOUT A WARRANT IN CERTAIN  
CIRCUMSTANCES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 66-8-124 NMSA 1978 (being Laws 1961,  
Chapter 213, Section 3, as amended) is amended to read:

"66-8-124. ARRESTING OFFICER TO BE IN UNIFORM.--

A. No person shall be arrested for violating the  
Motor Vehicle Code or other law relating to motor vehicles  
punishable as a misdemeanor except by a commissioned [~~salaried~~]  
peace officer who, at the time of arrest, is wearing a uniform  
clearly indicating the peace officer's official status and is  
working under the supervision of the officer's agency.

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underscoring material = new  
[bracketed material] = delete

1           B. Notwithstanding the provisions of Subsection A  
2 of this section, a municipality may provide by ordinance that  
3 uniformed private security guards may be commissioned by the  
4 local police agency to issue parking citations for violations  
5 of clearly and properly marked fire zones and access zones for  
6 persons with significant mobility limitation. Prior to the  
7 commissioning of any security guard, the employer of the  
8 security guard shall agree in writing with the local police  
9 agency to the commissioning of the employer's security guard.  
10 The employer of any security guard commissioned under the  
11 provisions of this section shall be liable for the actions of  
12 that security guard in carrying out the security guard's duties  
13 pursuant to that commission. Notwithstanding the provisions of  
14 the Tort Claims Act, private security guards commissioned under  
15 this section shall not be deemed public employees under that  
16 act."

17           Section 2. Section 66-8-125 NMSA 1978 (being Laws 1978,  
18 Chapter 35, Section 533) is amended to read:

19           "66-8-125. ARREST WITHOUT WARRANT.--

20           A. Members of the New Mexico state police, sheriffs  
21 and their [~~salaried~~] deputies and members of any municipal  
22 police force may arrest without warrant any person:

23                   (1) present at the scene of a motor vehicle  
24 accident;

25                   (2) on a highway when charged with theft of a

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1 motor vehicle; or

2 (3) charged with crime in another  
3 jurisdiction, upon receipt of a message giving the name or a  
4 reasonably accurate description of the person wanted, the crime  
5 alleged and a statement [~~he~~] that the person is likely to flee  
6 the jurisdiction of [~~the~~] this state.

7 B. To arrest without warrant, the arresting officer  
8 must have reasonable grounds, based on personal investigation,  
9 which may include information from eyewitnesses, to believe the  
10 person arrested has committed a crime.

11 C. Members of the New Mexico state police, sheriffs  
12 and their [~~salaried~~] deputies and members of any municipal  
13 police force may not make [~~arrest~~] arrests for traffic  
14 violations if not in uniform; however, nothing in this section  
15 shall be construed to prohibit the arrest, without warrant, by  
16 a peace officer of any person when probable cause exists to  
17 believe that a felony crime has been committed or in non-  
18 traffic cases."

19 Section 3. EFFECTIVE DATE.--The effective date of the  
20 provisions of this act is July 1, 2009.

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